

portion or interest set aside to each spouse shall be and constitute a part of the separate property and estate of such spouse or future spouse; spouses also may from time to time, by written instrument, agree between themselves that the income or property from all or part of the separate property then owned or which thereafter might be acquired by only one of them, shall be the separate property of that spouse; if one spouse makes a gift of property to the other that gift is presumed to include all the income or property which might arise from that gift of property; ~~and~~ spouses may agree in writing that all or part of their community property becomes the property of the surviving spouse on the death of a spouse; *and spouses may agree in writing that all or part of the separate property owned by either or both of them shall be the spouses' community property.*

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot proposition shall be printed to provide for voting for or against the proposition: "The constitutional amendment permitting spouses to agree to convert separate property to community property."

Passed by the House on April 28, 1999: Yeas 144, Nays 1, 1 present, not voting; passed by the Senate on May 21, 1999: Yeas 30, Nays 0.

Filed with the Secretary of State May 24, 1999

H.J.R. No. 44

A JOINT RESOLUTION

proposing a constitutional amendment relating to the filling of a vacancy in the office of governor or lieutenant governor.

BE IT RESOLVED BY THE Legislature of the State of Texas:

SECTION 1. Sections 3a, 16, 17, and 18, Article IV, Texas Constitution, are amended to read as follows:

Sec. 3a. If, at the time the Legislature shall canvass the election returns for the offices of Governor and Lieutenant Governor, the person receiving the highest number of votes for the office of Governor, as declared by the Speaker, has died, *fails to qualify, or for any other reason is unable to assume the office of Governor*, then the person having the highest number of votes for the office of Lieutenant Governor shall *become* ~~act as~~ Governor *for the full term to which the person was elected as Governor* ~~until after the next general election~~. *By becoming the Governor, the person forfeits the office of Lieutenant Governor, and the resulting vacancy in the office of Lieutenant Governor shall be filled as provided by Section 9, Article III, of this Constitution. If* ~~It is further provided that in the event~~ the person with the highest number of votes for the office of Governor, as declared by the Speaker, *becomes temporarily unable to take office* ~~shall become disabled, or fail to qualify~~, then the Lieutenant Governor shall act as Governor *until the person with the highest number of votes for the office of Governor becomes able to assume* ~~a person has qualified for~~ the office of Governor ~~or until after the next general election~~. Any succession to the Governorship not otherwise provided for in this Constitution, may be provided for by law; provided, however, that any person succeeding to the office of Governor shall be qualified as otherwise provided in this Constitution, and shall, during the entire term to which he may succeed, be under all the restrictions and inhibitions imposed in this Constitution on the Governor.

Sec. 16. (a) There shall also be a Lieutenant Governor, who shall be chosen at every election for Governor by the same electors, in the same manner, continue in office for the same time, and possess the same qualifications. The electors shall distinguish for whom they vote as Governor and for whom as Lieutenant Governor.

(b) The Lieutenant Governor[,] shall by virtue of his office[,] be President of the Senate, and shall have, when in Committee of the Whole, a right to debate and vote on all questions; and when the Senate is equally divided to give the casting vote.

(c) In the case of the temporary ~~[death, resignation, removal from office,]~~ inability or temporary disqualification ~~[refusal]~~ of the Governor to serve, ~~the~~ ~~[or of his]~~ impeachment of the Governor, or the absence of the Governor from the State, the Lieutenant Governor shall exercise the powers and authority appertaining to the office of Governor ~~[until another be chosen at the periodical election, and be duly qualified; or]~~ until the Governor becomes able or qualified to resume serving, is ~~[impeached, absent or disabled, shall be]~~ acquitted, or returns to the State ~~[return, or his disability be removed]~~.

(d) If the Governor refuses to serve or becomes permanently unable to serve, or if the office of Governor becomes vacant, the Lieutenant Governor becomes Governor for the remainder of the term being served by the Governor who refused or became unable to serve or vacated the office. On becoming Governor, the person vacates the office of Lieutenant Governor, and the resulting vacancy in the office of Lieutenant Governor shall be filled in the manner provided by Section 9, Article III, of this Constitution.

Sec. 17. (a) If, while exercising the powers and authority appertaining to the office of Governor under Section 16(c) of this article ~~[during the vacancy in the office of Governor]~~, the Lieutenant Governor becomes temporarily ~~[should die, resign, refuse to serve, or be removed from office, or be]~~ unable or disqualified to serve, is ~~[; or if he shall be]~~ impeached, or is absent from the State, the President pro tempore of the Senate, for the time being, shall exercise the powers and authority appertaining to the office of Governor ~~[in like manner, administer the Government]~~ until the ~~[he shall be superseded by a]~~ Governor or Lieutenant Governor reassumes those powers and duties.

(b) The Lieutenant Governor shall, while acting ~~[he acts]~~ as President of the Senate, receive for his or her services the same compensation and mileage which shall be allowed to the members of the Senate, and no more unless the Texas Ethics Commission recommends and the voters approve a higher salary, in which case the salary is that amount; and during the time the Lieutenant Governor exercises the powers and authority appertaining to the office of Governor, the Lieutenant Governor ~~[he administers the Government, as Governor, he]~~ shall receive in like manner the same compensation which the Governor would have received had the Governor ~~[he]~~ been employed in the duties of that ~~[his]~~ office, and no more. An increase in the emoluments of the office of Lieutenant Governor does not make a member of the Legislature ineligible to serve in the office of Lieutenant Governor.

(c) The President pro tempore ~~[, for the time being,]~~ of the Senate~~[,]~~ shall, during the time that officer exercises the powers and authority appertaining to the office of Governor ~~[he administers the Government]~~, receive in like manner the same compensation~~[,]~~ which the Governor would have received had the Governor ~~[he]~~ been employed in the duties of that ~~[his]~~ office.

Sec. 18. The Lieutenant Governor or President pro tempore of the Senate ~~[succeeding to the office of Governor,]~~ shall, during the time the Lieutenant Governor or President pro tempore exercises the powers and authority appertaining to the office of Governor ~~[entire term to which he may succeed]~~, be under all the restrictions and inhibitions imposed in this Constitution on the Governor.

SECTION 2. Section 9(a), Article III, Texas Constitution, is amended to read as follows:

(a) The Senate shall, at the beginning and close of each session, and at such other times as may be necessary, elect one of its members President pro tempore, who shall perform the duties of the Lieutenant Governor in any case of absence or temporary disability of that officer. If the ~~[said]~~ office of Lieutenant Governor becomes vacant, the President pro tempore of the Senate shall convene the Committee of the Whole Senate within 30 days after the vacancy occurs. The Committee of the Whole shall elect one of its members to perform the duties of the Lieutenant Governor in addition to the member's ~~[his]~~ duties as Senator until the next general election. If the Senator so elected ceases to be a Senator before the election of a new Lieutenant Governor, another Senator shall be elected in the same manner to perform the duties of the Lieutenant Governor until the next general election. Until the Committee of the Whole elects one of its members for this purpose, the President pro tempore shall perform the duties of the Lieutenant Governor as provided by this subsection.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or

against the proposition: "The constitutional amendment to revise the provisions for the filling of a vacancy in the office of governor or lieutenant governor."

Passed by the House on April 29, 1999: Yeas 143, Nays 0, 1 present, not voting; passed by the Senate on May 19, 1999: Yeas 28, Nays 1.

Filed with the Secretary of State May 21, 1999.

H.J.R. No. 58

A JOINT RESOLUTION

proposing a constitutional amendment relating to the investment of the permanent university fund and to distributions from that fund to the available university fund.

BE IT RESOLVED BY THE Legislature of the State of Texas:

SECTION 1. Section 11b, Article VII, Texas Constitution, is amended to read as follows:

Sec. 11b. Notwithstanding any other provision of this constitution, in managing the assets of the permanent university fund, the Board of Regents of The University of Texas System may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas growth fund created by Article XVI, Section 70, of this constitution, that *prudent investors, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment [persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. This section does not affect the custodial responsibilities of the comptroller of public accounts for public funds, securities, and other evidences of investment].*

SECTION 2. Section 18, Article VII, Texas Constitution, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) The available university fund consists of the *distributions made to it from the total return on all investment assets of [dividends, interest and other income from] the permanent university fund, [(less administrative expenses)] including the net income attributable to the surface of permanent university fund land. The amount of any distributions to the available university fund shall be determined by the board of regents of The University of Texas System in a manner intended to provide the available university fund with a stable and predictable stream of annual distributions and to maintain over time the purchasing power of permanent university fund investments and annual distributions to the available university fund. The amount distributed to the available university fund in a fiscal year must be not less than the amount needed to pay the principal and interest due and owing in that fiscal year on bonds and notes issued under this section. If the purchasing power of permanent university fund investments for any rolling 10-year period is not preserved, the board may not increase annual distributions to the available university fund until the purchasing power of the permanent university fund investments is restored, except as necessary to pay the principal and interest due and owing on bonds and notes issued under this section. An annual distribution made by the board to the available university fund during any fiscal year may not exceed an amount equal to seven percent of the average net fair market value of permanent university fund investment assets as determined by the board, except as necessary to pay any principal and interest due and owing on bonds issued under this section. The expenses of managing permanent university fund land and investments shall be paid by the permanent university fund.*